

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ANDREW JOSTEN LOVINGOOD,)	
Plaintiff)	
)	NO. 3:19-CV-00009
)	
v.)	
)	
BILL JOHNSON, DERRICK GRAVES;)	
And MONROE COUNTY, TENNESSEE)	
)	
Defendants)	

MOTION FOR SUMMARY JUDGMENT

Comes the Defendant, Derrick Graves, in his individual capacity, by and through counsel, and respectfully moves this Honorable Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, to grant him summary judgment. Derrick Graves submits that he should be granted summary judgment as to all remaining claims because he is entitled to a judgment as a matter of law based on the undisputed material facts of his case based on the follow:

- I. Derrick Graves is entitled to qualified immunity as to any claim under 42 U.S.C §1983 for excessive force against Mr. Lovingood because he did not violate any constitutional right or “clearly established” constitutional right of Mr. Lovingood based on the “particularized facts of this case,” as any use of force was “objectively reasonable.”
 - A. Derrick Grave’s use of force against Mr. Lovingood was “objectively reasonable” based on the circumstances that confronted him and the information that he possessed.

B. Derrick Graves did not violate any “clearly established” constitutional right of Mr. Lovingood based on the “particularized facts of this case.”

II. Derrick Graves is entitled to summary judgement as to any state-law claim because the undisputed material facts only support that he did not assault Mr. Lovingood and that he did not intentionally inflict emotional distress on Mr. Lovingood.

A. Derrick Graves did not assault or commit a battery against Mr. Lovingood.

B. Derrick Graves did not intentionally inflict emotional distress under Tennessee State Law.

III. Any claim for loss of consortium under federal and state-law should be dismissed because a loss of consortium claim is not cognizable under 42 U.S.C §1983 and the underlying claim should be dismissed.

In support of this *Motion for Summary Judgment*, Derrick Graves relies upon and files contemporaneously with the following:

1. Derrick Graves Declaration (Ex. 1)
2. Memorandum of Law in Support of Motion for Summary Judgment.

(Exhibit 2).

WHEREFORE, based on the above, Derrick Graves respectfully moves this Honorable Court, pursuant to Rule 56 of the Federal Rules of Civil Procedure, to grant him summary judgment as to all claims against him.

Respectfully Submitted this 13th day of July, 2020.

HINDMAN & LANZON

/s/ Scott A. Lanzon
SCOTT A. LANZON
Bank of America Center
550 Main Avenue, Suite 550
Knoxville, Tennessee 37902
865-525-7777

CERTIFICATE OF SERVICE

I hereby certify that on 13th day of February 2020, a copy of the foregoing was served by United States Mail to the individuals listed below:

Troy L. Bowlin, II
First Tennessee Plaza
800 South Gay Street, Suite 2131
Knoxville, TN 37929

Arthur F. Knight, III
First Tennessee Plaza
800 South Gay Street, Suite 600
Knoxville, TN 37929

This the 13th day of July, 2020.

/s/ Scott A. Lanzon
Scott A. Lanzon